



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-16

Legistar #: 20140596

Board of Zoning Appeals Hearing: Monday, June 23, 2014 – 6:00 p.m.

Property Owner: Cobb #1 Group, LLC
% Jose & Griselda Marquez
1835 Timothy Drive, N. E.
Atlanta, GA 30329

Address: 456, 472 and 476 Cobb Parkway North

Land Lot: 10920 District: 16 Parcels: 1280

Council Ward: 5B Existing Zoning: CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the minimum lot size required to operate two automobile selling businesses plus other businesses from 2.46 acres to 2.209 acres. [§708.16 (B.6.a.) & 708.16 (H.)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



472 Cobb Pkwy North



472 Cobb Pkwy North

Recommended Action:

Denial. The applicant, Cobb #1 Group, is requesting a variance to allow the operation of two car selling businesses plus other, non-car selling businesses on the property at 472 Cobb Parkway North. The subject property and properties located to either side (northwest and southeast) are zoned CRC (Community Retail Commercial). To the rear of the property are single family detached homes zoned R-4 (Single Family Residential – 4 units/acre). The survey submitted with the variance application indicates the property is 2.209 acres in size. The applicant is requesting the ability to lease the property to a tenant interested in conducting car sales.

Section 708.16(B.6.) lists automobile sales as a permitted use in the CRC zoning district with a minimum one acre lot size. Staff has a formal policy (see attached memo dated November 1, 2011) of interpreting this provision to require one acre for each auto dealer operating on the property. If there are other businesses operating on the site, then an additional 20,000 square feet would be required.

Active business licenses on this property include a used auto dealer and auto repair facility (no paint or body work allowed). The property currently contains enough acreage (1.459 acres) for these uses. However, the applicant would like the ability to have an additional auto dealer use the property, despite not having the necessary acreage. The property would need to be 2.459 acres in size in order to allow two auto dealers plus the car repair facilities and offices operate on the site.

Active Business Licenses on TID #16 10920 1280		
Address	Business Name	Description
476 Cobb Pkwy N	V & V Auto Center Inc	Auto Repair (No Paint & Body)
456 Cobb Pkwy N	Aryan Auto	Used Auto Dealer
472 Cobb Pkwy N	BMV Automotive Ctr ***2013 license pending	Auto Repair (No Paint & Body)
	Brazilian Motor Vehicle	General Mechanic
472 Cobb Pkwy N B	Global Foods ***2013 license pending	Administrative Office

In the past, the property has contained multiple auto dealers at one time. However, because there has not been more than one active auto dealer license on the property in the past six months, the property has lost its grandfathered status with respect to acreage for auto dealers. All new licenses must comply. In order for a tenant to get a license for an additional car dealer, a variance would need to be granted.

Staff noted during a site visit that the property is already very crowded. There does not seem to be much space to accommodate more vehicles being sold by another dealer. Additionally, the applicant has not adequately demonstrated a particular hardship as distinguished from a mere inconvenience or a desire to make more money. There is also no indication that exceptional or extraordinary circumstances apply to this site that do not apply generally to sites in the same zoning district. As a result, **staff recommends denial of this variance request.**



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, AICP, Director

MEMORANDUM

TO: Planning & Zoning Division staff
FROM: Brian Binzer, Director of Development Services
SUBJECT: Interpretation of Lot Size Requirement for Car Sales
DATE: November 1, 2011

ISSUE: Zoning districts that allow automobile, trailer and boat sales must contain a minimum lot size for the use. CRC, RRC, LI and HI require a minimum of one acre (43,560 s.f.) for car sales. CBD requires 20,000 s.f. There have been different ways of interpreting this requirement in the past, such as allowing the tenant hold a lease spanning multiple properties so long as the lease covers the minimum lot size required for the zoning district. However, this policy has been difficult to enforce and has often resulted in the creation of multiple grandfathered parcels, since the use is not isolated to one single parcel.

POLICY:

Regarding automobile sales in CRC, RRC, CBD, LI, and HI, the policy from this day forward shall be that the operating entity must have the minimum lot size under their exclusive control and within one continuous parcel.

If other businesses (non-car sales) are operating on the same parcel, then the property must contain the additional minimum lot size over and beyond the area required for the vehicle sales.

For example, a CRC zoned property containing both 1) a used car business and 2) an insurance business must contain one acre plus 20,000 s.f. There is no limit on the number of businesses that can operate under the 20,000 s.f., so long as those uses do not contain minimum area requirements. If another car selling business wants to locate on this property, there must be at least 2 acres plus 20,000 s.f.